



CAMPUS COUNSEL

A legal blog written for administrators, HR professionals, in-house counsel, and deans at colleges and universities

NLRB to Reconsider Graduate Students' Efforts to Unionize

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On October 22, by a 3-to-1 vote, the National Labor Relations Board agreed to review a Regional Director's decision that denied a unionization effort from graduate students at the New School. The Regional Director based her decision on the NLRB's 2004 decision in *Brown University*, in which the NLRB decided that graduate students at private institutions primarily are students, and not employees, and therefore not covered under the National Labor Relations Act. The New School graduate students specifically requested that the NLRB reconsider the *Brown University* decision. In dissent, Member Miscimarra noted that the NLRB has long considered graduate students to be outside of the scope of the National Labor Relations Act, save for a brief period between 2000 – 2004. [Some commenters](#) believe that the NLRB's decision to review the New School case may signal a change in Board members' views.

Client Tip: *This case bears monitoring. A decision in favor of the New School's graduate students could open the door to unionization efforts by graduate teaching assistants and research assistants across the country.*